

# SUMMARY ANALYSIS OF AMENDED BILL

## Franchise Tax Board

Author: Bowen Analyst: Roger Lackey Bill Number: SB 1016

Related Bills: See Prior Analysis Telephone: 845-3627 Amended Date: 05-27-99

Attorney: Patrick Kusiak Sponsor:

**SUBJECT:** Employee Records/Prohibits Employers From Secretly Monitoring Employees E-mail Or Other Personal Computer Records

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE ALL OF THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended May 11, 1999.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED May 11, 1999, STILL APPLIES.

OTHER - See comments below.

### SUMMARY OF BILL

This bill would provide that an employer may not secretly monitor the electronic mail or any other personal computer records generated by an employee.

This bill would require that an employer who intends to inspect, review, or retain any personal electronic mail or any other personal computer records notify its employees of its electronic monitoring policies and practices and require its employees to sign a statement acknowledging that the employee has received, read, and understood the employer's electronic monitoring policies and practices.

### SUMMARY OF AMENDMENT

The May 27, 1999, amendment deleted the requirement that an employee agree with the employer's policies and practices, and instead provided that the employee acknowledge receipt of the employer's workplace electronic monitoring policies and practices.

As a result of the amendment, the implementation concern regarding agreement with the policies, identified in the department's analysis of SB 1016 as amended May 11, 1999, is resolved. The remaining implementation concern has been included below.

#### Implementation Considerations

This bill would ensure an employee's right to review any data pertaining to the employee, as provided for in Labor Code Section 1198.5. However, Section 1198.5 of the Labor Code does not apply to the state and state agencies.

#### Board Position:

<u>    </u> S	<u>    </u> NA	<u>    </u> NP
<u>    </u> SA	<u>    </u> O	<u>    </u> NAR
<u>    </u> N	<u>    </u> OUA	<u>  X  </u> PENDING

Department/Legislative Director Date

**Johnnie Lou Rosas** **6/9/1999**

Thus, an employee of the state or a state agency would not have a right to inspect the personal information described in Section 1198.5 of the Labor Code. As a result, a state agency would not have to include a provision in its workplace privacy and electronic monitoring policies and practices that would provide access to the personal information described in Section 1198.5 of the Labor Code. It is unclear whether the author intended to make distinctions between types of employers.

BOARD POSITION

Pending.